

CONFERENCE CALL MEETING MINUTES
Board of Mental Health Practice

July 28, 2014

These minutes were approved by
the Board on September 18, 2014

1. ROLL CALL

The conference call meeting of the Board of Mental Health Practice was called to order by the Chair, Tom Maxson, at 12:04 p.m., at the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Open Meetings Law. The following members answered the roll call:

Members Present:	Dale Battleson	-	Vice-Chair
	Susan Feyen	-	Member
	William Gaughan	-	Member
	Mike Kinney	-	Member
	Thomas Maxson	-	Chair
	Susan Meyerle	-	Secretary
	Allison Reisbig	-	Member
	Sarita Ruma	-	Member

Members Absent: None

Others Present:	Kris Chiles	-	Program Manager, Licensure Unit
	1 public person		
	Roger Brink	-	Department attorney

A quorum was present and the meeting convened.

2. REGULATION LANGUAGE REVIEW, DISCUSSION AND ADOPTION

12:13 p.m.	-	Roger Brink departed the meeting
12:15 p.m.	-	Roger Brink entered the meeting

Maxson stated that he would like to open discussion about removing "gender identity" in the unprofessional conduct section entitled 'discrimination' in the draft regulations as recommended by Dr. Acierno when he met with the Board at their earlier meeting this month.

Kinney commented that there was no reason provided as to why gender identity was an issue except that reading between the sentences that it does not appear anywhere else in regulations. He wondered if gender identity was different from sexual orientation. Reisbig replied that they were discrete identifiers as sexual orientation did not include gender identity and gender identity did not include sexual orientation. Kinney commented if they chose to strike gender identity to move the regulations forward and get a public hearing, that it was his understanding that the Board had an opportunity after considering public input to again reconsider if they wanted to put it back in or not. Brink responded that legally that was correct. Meyerle commented that if they decided to put it back in after public hearing, it would be in response to comments at the public hearing.

Another member wondered if gender identity would already be included under gender. Meyerle responded that from a theoretical standpoint that seemed correct because when students were taught about gender, it was interpreted as how one sees themselves. Ruma stated she had also been thinking about that and wondered if gender was enough or if there needed to be something like gender category but that seemed like they were playing with words. Gaughan asked if other disciplines had gender in their regulations and Battleson responded that the AAMFT Code had gender, sexual orientation and gender identity. Maxson commented that the APA Code had gender identity. Brink stated that there were no Nebraska statutes or regulations that used gender identity in relationship to discrimination. He also stated that under the definition of disability in the Nebraska Fair Employment Practice Act, gender identity disorder, bisexuality, homosexuality and several other sexual behavior disorders were identified as not included in the definition of disability (Neb. Rev. Stat. 48-1102).

A member commented that specifically putting gender identity in the regulations would take a stand to protect the rights of those individuals who were questioning their identity. Meyerle responded the question was did they want to take that firm message at this point considering where they were with the regulations. It was commented that gender identity was included in an executive order for workers of Federal contractors signed by President Obama and the City of Omaha recently adopted hiring practices

that eliminate discrimination for gender identity. Maxson commented he was hesitant to remove gender identity as the regulations were taking a stand on saying it was an issue that needed to be looked at. It was commented that they were talking about a small portion of the population but a particularly vulnerable population. It was asked if there was any public input regarding the language. A public member commented that the ACA advocated for keeping in gender identity. Chiles reported she had conversed with Jim Cunningham and he responded that striking the word would not be a problem for them but that they had also agreed to the prior language. Meyerle commented that she felt strongly that the regulations needed to move forward.

Kinney asked if they strike "gender identity," go to public hearing and then change their mind based on public input, was it still up to the Governor to sign them? Brink said there were the following steps before the regulations went to the Governor's Office: They would have to be approved by the Board of Health, approved by the Department, approved by the Attorney General and then go to the Governor's Office. Kinney commented if they go to public hearing and there were no comments regarding gender identity, then he did not see how the Board could go back and decide they want to put gender identity back in the regulations. Meyerle said the public hearing would be the time for those monitoring the regulations who felt strongly about gender identity to attend the public hearing or submit written comments.

MOTION: Meyerle moved, seconded by Kinney, to strike the language "gender identity" from the discrimination section under unprofessional conduct in the draft regulations. A roll call vote was taken. Voting aye: Gaughan, Kinney, Meyerle, Ruma, Schnuelle (5). Voting nay: Battleson, Feyen, Maxson, Reisbig (4). Abstain: None (0). Absent: None (0). Motion carried.

3. ADJOURNMENT

Maxson adjourned the meeting of the Board of Mental Health Practice at 12:44 p.m.

Respectfully Submitted,

Susan Feyen, Secretary
Board of Mental Health Practice

Next Meeting: September 5, 2014

Summarized by: Nancy Herdman, Health Licensing Coordinator, Licensure Unit